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**fax transmittal****FROM:****Name** Boris A. Matvenko**Date** June 19, 2008**# of Pages** 6**To:**

<b>Name</b>	<b>Company</b>	<b>Business#</b>	<b>Fax #</b>
Examiner Pham	United States Patent and Trademark Office	571-272-3924	571-273-3924

**Comments:**

Examiner Pham:

Enclosed is an Applicant Initiated Interview Request Form in connection with a scheduled June 24, 2008 Interview at 1:30PM regarding U.S. Patent Application No. 10/659,642. Should you have any questions, please do not hesitate to contact me at 212-692-6858.

Respectfully Submitted,

Boris A. Matvenko

Please call us at 212-935-3000 if you experience any problems.

**STATEMENT OF CONFIDENTIALITY**

The information contained in this fax is intended for the exclusive use of the addressee and may contain confidential or privileged information. If you are not the intended recipient, you are hereby notified that any form or dissemination of this communication is strictly prohibited. If this fax was sent in error, please immediately notify us by phone.

**Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.**

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Facsimile Transmitted to 571-273-3924

Date of Deposit: June 19, 2008

Attorney Docket No. 24195-520

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: David Therrien et al.

Examiner: Pham, M.

Serial No.: 10/659,642

Group Art Unit: 2167

Filed: September 10, 2003

Confirmation No.: 3651

Attorney Docket No.: 25452-015

Title: **METHOD AND APPARATUS FOR SERVER SHARE MIGRATION AND  
SERVER RECOVERY USING HIERARCHICAL STORAGE  
MANAGEMENT**

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Commissioner of Patents

P.O. Box 1450

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**TRANSMITTAL LETTER**

Transmitted herewith for filing in the present application are the following documents:

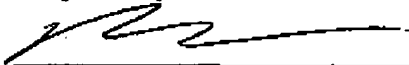
1. Applicant Initiated Interview Request Form (w/ continuation sheet) (3 pages); and
2. Certificate of Transmission under 37 C.F.R. 1.8.

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned collect at (212) 935-3000, New York, New York.

The Director is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Reference No. 25452-015. Please address all correspondence to customer number 35437.

Dated: June 19, 2008

Respectfully submitted,



Boris A. Matvenko, Reg. No. 48,165

Attorney for Applicant

MINTZ LEVIN COHN FERRIS

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PTOL-413A (10-07)

Approved for use through 06/30/2008. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

## Applicant Initiated Interview Request Form

Application No.: 10/659,642 First Named Applicant: David G. Therrien  
Examiner: Michael Pham Art Unit: 3651 Status of Application: Pending

### Tentative Participants:

(1) Examiner Michael Pham (2) Boris A. Matvenko, Reg. No. 48,165  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: To be determined by Examiner Proposed Time: To be determined AM/PM

### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>1-4, 8</u>	<u>Yakir, Wilde</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>Rejection</u>	<u>5-6</u>	<u>Yakir, Wilde, Lam</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) <u>Rejection</u>	<u>7, 9-15</u>	<u>Yakir, Wilde, Weinman, Lam</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☒ Continuation Sheet Attached

### Brief Description of Argument to be Presented:

Please see attached Continuation Sheet.

An interview was conducted on the above-identified application on \_\_\_\_\_.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

\_\_\_\_\_  
Applicant/Applicant's Representative Signature  
Boris A. Matvenko  
Typed/Printed Name of Applicant or Representative  
48,165

\_\_\_\_\_  
Examiner/SPE Signature

Registration Number, if applicable: \_\_\_\_\_

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date of Deposit: June 19, 2008

Attorney Docket No.: 25452-015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Examiner: Pham, M.

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**CONTINUATION SHEET**  
**ISSUES PROPOSED FOR DISCUSSION AT THE INTERVIEW**

Examiner Pham:

Applicants respectfully request the Examiner to grant Applicants a telephonic interview at a time convenient to the Examiner to discuss rejections issued in the Office Action, mailed March 6, 2008. In that regard, Applicants submit the following summary of issues to be discussed at the telephonic interview. Applicants request this telephonic interview in advance of a submission of their response to the outstanding March 6, 2008 Office Action.

In the Office Action, the Examiner rejected claims 1-15 under 35 U.S.C. 103(a) as being unpatentable in view of various combination of U.S. Patent Publication No. 2004/0049513 to Yakir (hereinafter, "Yakir"), U.S. Patent No. 5,991,753 to Wilde (hereinafter, "Wilde"), U.S. Patent No. 5,564,037 to Lam (hereinafter, "Lam"), and U.S. Patent Publication No. 2002/0055972 to Weinman (hereinafter, "Weinman").

**Yakir:**

Yakir fails to disclose wherein the repository nodes store a replica of the file and maintaining, at the destination fileserver, a list of repository nodes that contain a replica of each file in the set of files, and a list of files in the set of files stored at the destination fileserver, as recited in claim 1. In contrast, Yakir includes file location information using which Yakir's SMS can find the file. Yakir does not maintain a list of repository nodes that have a replica of the file. Instead, Yakir stores "data locator information or portions thereof" in various storage locations.

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Attorney Docket No.: 25452-015

(Yakir, para. [0071]). The data locator information is stored in the stub file. (Yakir, para. [0071]). Yakir fails to disclose using the lists, initiating recovery of files in the set of files on the destination fileserver, using a stub file in the set of stub files, allowing access to a full content of a file associated with the stub file, as recited in claim 1.

**Wilde:**

Wilde fails to disclose receiving metadata and stub files associated with the set of files at a destination fileserver, as recited in claim 1. Wilde migrates a copy of an entire file rather than a stub file. (Wilde, Col. 5, lines 44-45). Further, Wilde retains a stub file that contains information about the file. (Wilde, Col. 5, lines 46-50). In contrast, the present invention receives metadata and stub files associated with the files, as recited in claim 1. Wilde also fails to disclose maintaining a list of repository nodes that are associated with each file in the set of files by updating a location components in the fileserver, wherein the repository nodes store a replica of the file, as recited in claim 1. Instead, Wilde generates a list of files that cannot be migrated, i.e., a locked list. (Wilde, Col. 14, lines 30-42). The present invention updates a location component that maintains a list of repository nodes as opposed to Wilde's list of files.

**Weinman:**

Weinman fails to disclose maintaining, at the destination fileserver, a list of repository nodes that contain a replica of each file in the set of files, and a list of files in the set of files stored at the destination fileserver, as recited in claim 1. Instead, Weinman determines whether too few or too many copies have been created and either adds or deletes copies of files. (Weinman, para. [0015]) and does not maintain any lists of nodes that have a replica of a file.

**Lam:**

Lam fails to disclose maintaining, at the destination fileserver, a list of repository nodes that contain a replica of each file in the set of files, and a list of files in the set of files stored at the destination fileserver, as recited in claim 1. Instead, Lam relates to staging out files that have not been accessed in some time from primary storage to secondary and tertiary storage.

**Disadvantages of Prior Art:**

- o no disaster recovery when originating fileserver is not operational;
- o recovery process is slow;
- o cannot replicate metadata across multiple volumes, thus, no HSM-assisted disaster recovery;
- o require manual access and reload of files and does not use automatic reloading of cached data

PTO/SB/97 (09-04)

Approved for use through 07/31/2008. OMB 0661-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

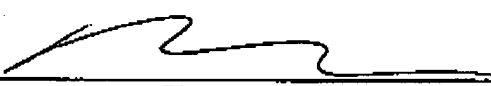
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on June 19, 2008

Date

  
\_\_\_\_\_  
SignatureBoris A. Matvenko

Typed or printed name of person signing Certificate

Reg. No. 48,165

Registration Number, if applicable

212-935-3000

Telephone Number

**Note:** Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

The following is being facsimile transmitted to the U.S. Patent and Trademark Office regarding U.S. Application No. 10/659,642: 1. Transmittal Letter (1 page); 2. Applicant Initiated Interview Request Form (w/ continuation sheet) (3 pages).

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